IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Writ Petition No. 633 of 2004 (S/S)

Moinuddin …….. Petitioner

Versus

District Magistrate,
Udham Singh Nagar & others …….. Respondents

Mr. S.S. Yadav, learned counsel for the petitioner.
Mr. Nand Prasad, learned Standing Counsel for the State.

Hon. P.C. Verma, A.C.J.

By means of the present writ petition the petitioner has challenged the transfer order dated 05.06.2004 (contained as Annexure-1 to this petition). The petitioner is as Lekhpal. The petitioner has been transferred from one helka to another helka by the sub Divisional Magistrate, Khatima.

Mr. S.S. Yadav, learned counsel for the petitioner submitted that the Collector is only empowered to pass the transfer order of a Lekhpal, transferring him form one halqa to another halqa. The Sub Divisional Magistrate can only transfer the Lekhpal within the Pargana. Here in the instant case, the petitioner has been transferred from the halqa which is outside the Pergana. Therefore, the transfer order is bad.

It is further submitted by the learned counsel for the petitioner that since the consolidation proceedings are going on, therefore, in view of the Rule 21, sub Clause (a) (b) of the U.P. Lekhpals Service Rules, 1958, the Sub Divisional Magistrate ought to have taken the consent of the consolidation Officer concerned. The petitioner is not a consolidation Lekhpal. Therefore, sub Clause (b) of Rule 21 of the U.P.

Lekhpals Service Rules, 1958 will not be applicable in this case. This sub Clause is applicable where the Lekhpal is working as consolidation Lekhpal and only then the consent is required. However, since the order has not been passed by the Collector, Udham Singh Nagar, therefore, I direct the Sub Divisional Magistrate, Khatima to place the matter before the Collector for passing appropriate order within a period of two days from the date of production of certified copy of this Order. The Collector, Udham Singh Nagar is directed to pass appropriate order taking into account the exigency of service within a week.

Till then the petitioner will not be relieved. The Collector, Udham Singh Nagar shall exercise his power independently without any political pressure as alleged by the petitioner.

The petition is disposed of accordingly.

(P.C. Verma, A.C.J.)

Dt. 17.06.2004
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